

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

BENJAMIN KARL SMITH,

Plaintiff,

vs.

D.J. GODFREY, WARDEN  
FLETCHER, ASST. WARDEN  
POWELL, MR. HENSON, CHAPLIN  
DE LELLA, and MR. MADRID,

Defendants.

CV 18-150-GF-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this case on April 24, 2019. (Doc. 25.) Judge Johnston recommended that Benjamin Karl Smith's Motion for Summary Judgment (Doc. 4) and Motion to Grant Motion for Summary Judgment (Doc. 21) be denied.

Neither party filed objections to Judge Johnston's Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake

has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

**IT IS ORDERED** that Judge Johnston’s Findings and Recommendations (Doc. 25) are **ADOPTED IN FULL**. Smith’s Motion for Summary Judgment (Doc. 4) and Motion to Grant Motion for Summary Judgment (Doc. 21) are **DENIED**.

DATED this 23rd day of July, 2019.

A handwritten signature in blue ink, appearing to read "Brian Morris".

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Brian Morris  
United States District Court Judge